



General Assembly

January Session, 2003

***Raised Bill No. 6679***

LCO No. 4425

Referred to Committee on Public Health

Introduced by:  
(PH)

***AN ACT CONCERNING COMPENSATION FOR SMALLPOX VACCINE INJURIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) For purposes of sections 1 to  
2       4, inclusive, of this act:

3       (1) "Covered countermeasure" has the same meaning as provided in  
4       42 USC 233, as from time to time amended; and

5       (2) "Qualified person" has the same meaning as provided in 42 USC  
6       233, as from time to time amended.

7       Sec. 2. (NEW) (*Effective from passage*) (a) In response to the  
8       declaration issued on January 24, 2003, by the Secretary of Health and  
9       Human Services pursuant to Section 304 of the Homeland Security  
10      Act, P.L. 107-296, there is established a Connecticut Public Health  
11      Smallpox Response Team that shall be responsible for administering a  
12      covered countermeasure to persons in this state who choose to receive  
13      a covered countermeasure in the event the Secretary of Health and  
14      Human Services advises a state-wide administration of a covered

15 countermeasure pursuant to Section 304 of the Homeland Security Act,  
16 P.L. 107-296. Such team shall consist of individuals who voluntarily  
17 receive a covered countermeasure, and entities including, but not  
18 limited to, hospitals, under whose auspices covered countermeasures  
19 are administered.

20 (b) The Commissioner of Public Health shall appoint, in writing, the  
21 members of the Connecticut Public Health Smallpox Response Team,  
22 and maintain a list of the individuals and entities that are members of  
23 said team. Such individuals shall be appointed prior to receiving a  
24 covered countermeasure, except that those individuals who received a  
25 covered countermeasure prior to the effective date of this section shall  
26 be deemed to have been placed on such list prior to receiving the  
27 covered countermeasure.

28 (c) Any incidence of illness, injury, disability or death directly or  
29 indirectly resulting from the administration of a covered  
30 countermeasure shall be reported to the Department of Public Health.  
31 On or before July 1, 2003, and quarterly thereafter, the department  
32 shall submit a report, in accordance with section 11-4a of the general  
33 statutes, summarizing such incidences to the joint standing committee  
34 of the General Assembly having cognizance of matters relating to  
35 public health, provided said report shall not disclose the names of  
36 individuals who experience illness, injury, disability or death.

37 (d) Not later than September 1, 2003, the Department of Public  
38 Health shall adopt regulations, in accordance with chapter 54 of the  
39 general statutes, to set minimum safety standards for the  
40 administration of covered countermeasures in the state.

41 Sec. 3. (NEW) (*Effective from passage*) (a) No individual or entity that  
42 (1) is a member of the Connecticut Public Health Smallpox Response  
43 Team, and (2) administers or receives a covered countermeasure, or  
44 under whose auspices a covered countermeasure is administered or  
45 received in accordance with a declaration issued pursuant to Section  
46 304 of the Homeland Security Act, P.L. 107-296, shall be personally

47 liable for any injury, illness, disability or death occurring to an  
48 individual that arises from the administration or receipt of the covered  
49 countermeasure, unless such administration or reception is wanton,  
50 reckless or malicious. To the extent permitted by the Homeland  
51 Security Act, P.L. 107-296, any person having a complaint for such  
52 injury, illness, disability or death may present it as a claim against the  
53 state in accordance with the provisions of chapter 53 of the general  
54 statutes.

55 Sec. 4. (NEW) (*Effective from passage*) (a) For purposes of this section,  
56 "employer" and "employee" shall have the same meaning as in section  
57 31-275 of the general statutes.

58 (b) Notwithstanding any provision of chapter 568 of the general  
59 statutes, for any employee who (1) is covered by an approved workers'  
60 compensation plan, and (2) either (A) has received a covered  
61 countermeasure as a member of the Connecticut Public Health  
62 Smallpox Response Team established pursuant to section 2 of this act,  
63 or (B) is now or was formerly employed by the same employer at the  
64 same time as the employee in subparagraph (A) of this subdivision,  
65 there shall be an irrebuttable presumption that any injury, illness,  
66 disability or death of any employee as the result of receiving a covered  
67 countermeasure or a secondary transmission of a covered  
68 countermeasure, occurred while such employee acted within the scope  
69 of such employee's employment.

70 (b) Any individual who (1) is not covered by an employer's workers'  
71 compensation plan, (2) either (A) has received a covered  
72 countermeasure as a member of the Connecticut Public Health  
73 Smallpox Response Team established pursuant to section 2 of this act,  
74 or (B) is now or was formerly employed by the same employer at the  
75 same time as the employee in subparagraph (A) of this subdivision,  
76 and (3) experiences injury, illness, disability or death as the result of  
77 receiving a covered countermeasure or as a result of a secondary  
78 transmission of a covered countermeasure, shall be deemed to be a

79 state employee in the unclassified service and shall be eligible for  
80 compensation pursuant to chapter 568 of the general statutes for said  
81 injury, illness, disability or death, provided a claim shall be made in  
82 writing to the workers' compensation commissioner for the district in  
83 which the claimant resides or resided within one year from the first  
84 manifestation of a symptom. The workers' compensation  
85 commissioner shall determine the amount of weekly benefit consistent  
86 with chapter 568 of the general statutes, for which such individual may  
87 be eligible, except such individual shall not receive less than the  
88 minimum weekly wage as determined by the Labor Commissioner for  
89 a forty-hour workweek. The workers' compensation commissioner  
90 shall determine the length of eligibility for such weekly benefit,  
91 consistent with the provisions of chapter 568 of the general statutes.

92 (c) Notwithstanding any provision of chapter 568 of the general  
93 statutes, receipt of workers' compensation benefits pursuant to this  
94 section shall not bar an individual from seeking or obtaining  
95 compensation pursuant to the federal Tort Claims Act, as provided in  
96 Section 304 of the Homeland Security Act, P.L. 107-296, or against a  
97 liable third party.

98 Sec. 5. (NEW) (*Effective July 1, 2003*) Each individual health  
99 insurance policy providing coverage of the type specified in  
100 subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general  
101 statutes, delivered, issued for delivery, amended, renewed or  
102 continued in this state on or after October 1, 2003, shall provide  
103 coverage for any adverse health events that occur as the result of  
104 acquiring vaccinia virus infection through contact with a smallpox  
105 vaccinee.

106 Sec. 6. (NEW) (*Effective July 1, 2003*) Each group health insurance  
107 policy providing coverage of the type specified in subdivisions (1), (2),  
108 (4), (11) and (12) of section 38a-469 of the general statutes, delivered,  
109 issued for delivery, amended, renewed or continued in this state on or  
110 after October 1, 2003, shall provide coverage for any adverse health

111 events that occur as the result of acquiring vaccinia virus infection  
112 through contact with a smallpox vaccinee.

113 Sec. 7. (NEW) (*Effective from passage*) The Department of Public  
114 Health shall develop, no later than thirty days after the effective date  
115 of this section, informational materials explaining the protections  
116 provided in the Homeland Security Act, P.L. 107-296 and in sections 1  
117 to 6, inclusive, of this act, for individuals who (1) receive a covered  
118 countermeasure, or (2) receive a covered countermeasure due to a  
119 secondary transmission. The department shall distribute such  
120 materials to any individual prior to such individual receiving a  
121 covered countermeasure. The department shall also provide such  
122 materials to each individual who received a covered countermeasure  
123 prior to the date thirty days after the effective date of this section.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>July 1, 2003</i>
Sec. 6	<i>July 1, 2003</i>
Sec. 7	<i>from passage</i>

**Statement of Purpose:**

To provide for compensation to persons who suffer injury, illness, disability or death as a result of being vaccinated against smallpox.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*